

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-25-07

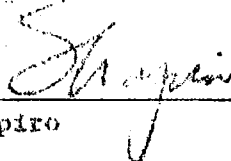
Date


Honorable David Dewhurst  
President of the Senate


Honorable Tom Craddick  
Speaker of the House of Representatives

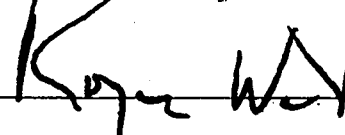
Sirs:

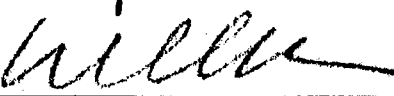
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB. 1031 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

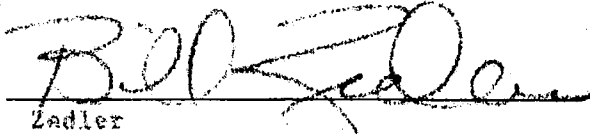
  
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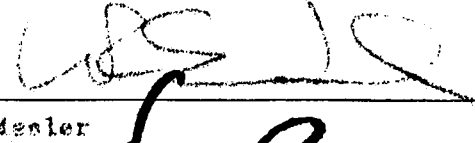
  
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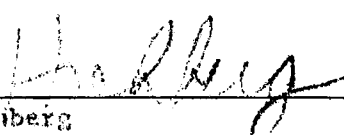
  
West


  
On the part of the Senate  
Williams

  
Zadler

  
Biesler

  
Branch

  
Hochberg

  
On the part of the House  
Patrick

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 1031

A BILL TO BE ENTITLED

AN ACT

relating to public school accountability and the administration of certain assessment instruments in public schools; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 18.006, Education Code, is amended to read as follows:

(b) In addition to other factors determined to be appropriate by the commissioner, the accountability system must include consideration of:

(1) student performance on the end-of-course ~~[secondary exit level]~~ assessment instruments required by Section 39.023(c); and

(2) dropout rates, including dropout rates and diploma program completion rates for the grade levels served by the diploma program.

SECTION 2. Subsection (b), Section 21.006, Education Code, is amended to read as follows:

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the State Board for Educator Certification if the superintendent or director has reasonable cause to believe that:

1           (1) an educator employed by or seeking employment by  
2 the district, service center, or shared services arrangement has a  
3 criminal record;

4           (2) an educator's employment at the district, service  
5 center, or shared services arrangement was terminated based on a  
6 determination that the educator:

7                   (A) abused or otherwise committed an unlawful act  
8 with a student or minor;

9                   (B) possessed, transferred, sold, or distributed  
10 a controlled substance, as defined by Chapter 481, Health and  
11 Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent  
12 amendments;

13                  (C) illegally transferred, appropriated, or  
14 expended funds or other property of the district, service center,  
15 or shared services arrangement;

16                  (D) attempted by fraudulent or unauthorized  
17 means to obtain or alter a professional certificate or license for  
18 the purpose of promotion or additional compensation; or

19                  (E) committed a criminal offense or any part of a  
20 criminal offense on school property or at a school-sponsored event;  
21 [~~or~~]

22           (3) the educator resigned and reasonable evidence  
23 supports a recommendation by the superintendent or director to  
24 terminate the educator based on a determination that the educator  
25 engaged in misconduct described by Subdivision (2); or

26                   (4) the educator engaged in conduct that violated the  
27 assessment instrument security procedures established under

1 Section 39.0301.

2 SECTION 3. Subsection (b), Section 25.005, Education Code,  
3 is amended to read as follows:

4 (b) A reciprocity agreement must:

5 (1) address procedures for:

6 (A) transferring student records;

7 (B) awarding credit for completed course work;

8 and

9 (C) permitting a student to satisfy the  
10 requirements of Section 39.025 through successful performance on  
11 comparable end-of-course or other exit-level assessment  
12 instruments administered in another state; and

13 (2) include appropriate criteria developed by the  
14 agency.

15 SECTION 4. Subsection (b), Section 29.081, Education Code,  
16 is amended to read as follows:

17 (b) Each district shall provide accelerated instruction to  
18 a student enrolled in the district who has taken an end-of-course  
19 ~~[the secondary exit-level]~~ assessment instrument administered  
20 under Section 39.023(c) and has not performed satisfactorily on the  
21 assessment instrument ~~[each section]~~ or who is at risk of dropping  
22 out of school.

23 SECTION 5. Subsection (f), Section 29.087, Education Code,  
24 as amended by Chapters 283 and 373, Acts of the 78th Legislature,  
25 Regular Session, 2003, is reenacted and amended to read as follows:

26 (f) A student participating in a program authorized by this  
27 section, other than a student ordered to participate under

1 Subsection (d)(1), must have taken the appropriate end-of-course  
2 assessment instruments specified by Section 39.023(c) [~~39.023(a)~~  
3 ~~for grade 9~~] before entering the program and must take each  
4 appropriate end-of-course [~~grade level~~] assessment instrument  
5 administered during the period in which the student is enrolled in  
6 the program. Except for a student ordered to participate under  
7 Subsection (d)(1), a student participating in the program may not  
8 take the high school equivalency examination unless the student has  
9 taken the assessment instruments required by this subsection.

10 SECTION 6. Subsection (e), Section 30.021, Education Code,  
11 is amended to read as follows:

12 (e) The school shall cooperate with public and private  
13 agencies and organizations serving students and other persons with  
14 visual impairments in the planning, development, and  
15 implementation of effective educational and rehabilitative service  
16 delivery systems associated with educating students with visual  
17 impairments. To maximize and make efficient use of state  
18 facilities, funding, and resources, the services provided in this  
19 area may include conducting a cooperative program with other  
20 agencies to serve students who have graduated from high school by  
21 completing all academic requirements applicable to students in  
22 regular education, excluding satisfactory performance under  
23 Section 39.025 [~~on the exit-level assessment instrument~~], who are  
24 younger than 22 years of age on September 1 of the school year and  
25 who have identified needs related to vocational training,  
26 independent living skills, orientation and mobility, social and  
27 leisure skills, compensatory skills, or remedial academic skills.

SECTION 7. Chapter 39, Education Code, is amended by adding Subchapter A to read as follows:

SUBCHAPTER A. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL ACCOUNTABILITY SYSTEM

Sec. 39.001. SELECT COMMITTEE ON PUBLIC SCHOOL ACCOUNTABILITY. (a) The Select Committee on Public School Accountability is established to conduct a comprehensive review of the public school accountability system.

(b) The committee is composed of 15 members appointed as follows:

(1) the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education;

(2) one member of the senate, appointed by the lieutenant governor;

(3) one member of the house of representatives, appointed by the speaker of the house of representatives;

(4) the commissioner;

(5) the commissioner of higher education;

(6) one public school teacher, one public school principal, and one public school district superintendent, each currently employed in this state and each appointed jointly by the lieutenant governor and the speaker of the house of representatives;

(7) two persons each of whom is currently employed as an educator in a public school in this state and each appointed jointly by the lieutenant governor and the speaker of the house of

1 representatives;

2 (8) one representative from the business community or  
3 the public, appointed by the lieutenant governor;

4 (9) one representative from the business community or  
5 the public, appointed by the speaker of the house of  
6 representatives; and

7 (10) two representatives from the business community  
8 and the public, at least one of whom has one or more children who  
9 currently attend public school in this state, appointed by the  
10 governor.

11 (c) The governor, lieutenant governor, and speaker of the  
12 house of representatives shall make the appointments required by  
13 Subsection (b) in a timely fashion to permit the committee to comply  
14 with Section 39.002(a).

15 Sec. 39.002. COMMITTEE MEETINGS. (a) Not later than  
16 October 1, 2007, the committee shall hold an organizational  
17 meeting.

18 (b) The presiding officers described by Section  
19 39.001(b)(1) serve as co-chairs of the committee.

20 (c) Committee meetings shall be held at the call of the  
21 co-chairs.

22 Sec. 39.003. COMPENSATION AND REIMBURSEMENT. (a) A member  
23 of the committee is entitled to reimbursement for actual and  
24 necessary expenses incurred in performing committee duties.

25 (b) A legislative member of the committee is entitled to  
26 reimbursement from the appropriate fund of the house of the  
27 legislature in which the member serves.

1        (c) A member other than a legislative member is entitled to  
2 reimbursement from funds appropriated to the committee.

3        Sec. 39.004. COMMITTEE STAFF. Staff members of the  
4 standing committees described by Section 39.001(b)(1) shall serve  
5 as the staff of the committee.

6        Sec. 39.005. OBJECTIVES OF STUDY. (a) The committee shall  
7 conduct a comprehensive review of the public school accountability  
8 system. In conducting its review, the committee shall study the  
9 mission, organizational structure, design, processes, and  
10 practices of similar accountability systems in other states and the  
11 requirements established by federal law.

12        (b) A review under this section must include a thorough  
13 study of:

14                (1) each element of the accountability system  
15 prescribed by this chapter, with special emphasis on:

16                        (A) the indicators used to determine  
17 accreditation status;

18                        (B) rewards and incentives for campus  
19 excellence; and

20                        (C) the responsibilities of the commissioner in  
21 assisting and, if necessary, imposing sanctions on districts that  
22 do not meet state performance standards;

23                (2) the extent to which the accountability system is  
24 aligned with the requirements prescribed by the No Child Left  
25 Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

26                (3) the extent to which the accountability system  
27 reflects the public education mission, objectives, and goals



1 provided by Chapter 4;

2 (4) the extent to which the accountability system  
3 meets public expectations;

4 (5) the extent to which the accountability system  
5 fairly and accurately reports the effectiveness of educators,  
6 instructional programs, support services, and financial  
7 expenditures and the impact of these elements on student  
8 achievement;

9 (6) the methods available to monitor the progress of  
10 each public school student, with special emphasis on methods to  
11 monitor demonstrable growth in academic achievement;

12 (7) the performance indicators that would  
13 successfully measure the effectiveness of the campus teaching and  
14 learning environment, including the effect of student discipline on  
15 that environment;

16 (8) the effectiveness of the accountability system in  
17 reporting the performance of open-enrollment charter schools and  
18 alternative education programs;

19 (9) the implementation of statewide assessment  
20 instruments, including specifically end-of-course assessment  
21 instruments;

22 (10) the extent to which the accountability system  
23 measures the performance of districts and campuses on important  
24 indicators and aspects of the educational process, other than  
25 student scores on standardized assessment instruments;

26 (11) the extent to which the accountability system  
27 clearly and accurately reports to parents and interested persons

1 the overall performance of districts and campuses; and

2 (12) the extent to which the accountability system  
3 considers the different student demographics of districts and  
4 campuses.

5 (c) The committee shall conduct public hearings throughout  
6 the state and solicit testimony about the accountability system  
7 from parents of public school children and other interested  
8 persons. At least one public hearing must be held at a public  
9 school during a time that public school students are able to attend  
10 the hearing.

11 (d) The commissioner shall ensure that the committee has  
12 access to any documentation and agency personnel the committee  
13 requests.

14 (e) The Legislative Budget Board, comptroller, state  
15 auditor, and any other state agency, official, or personnel shall  
16 cooperate with the committee in carrying out its duties under this  
17 subchapter.

18 (f) The committee may coordinate the study under this  
19 subchapter with any other legislative study, as appropriate.

20 Sec. 39.006. REPORT. (a) Not later than December 1, 2008,  
21 the committee shall provide a report that:

22 (1) states the findings of the study conducted under  
23 this subchapter; and

24 (2) includes any recommendations for statutory  
25 changes.

26 (b) The report must be approved by a majority of the  
27 committee members. A member who disagrees with any part of the

1 report may attach a dissenting statement to the report.

2 Sec. 39.007. EXPIRATION. This subchapter expires January  
3 13, 2009.

4 SECTION 8. Section 39.023, Education Code, is amended by  
5 amending Subsections (a), (c), and (e) and adding Subsections  
6 (c-1), (c-2), (c-3), (c-4), (c-5), and (c-6) to read as follows:

7 (a) The agency shall adopt or develop appropriate  
8 criterion-referenced assessment instruments designed to assess  
9 essential knowledge and skills in reading, writing, mathematics,  
10 social studies, and science. All students, except students  
11 assessed under Subsection (b) or (1) or exempted under Section  
12 39.027, shall be assessed in:

13 (1) mathematics, annually in grades three through  
14 seven without the aid of technology and in grade [~~grades~~] eight  
15 [~~through 11~~] with the aid of technology on any assessment  
16 instrument [~~instruments~~] that includes [~~include~~] algebra;

17 (2) reading, annually in grades three through eight  
18 [~~nine~~];

19 (3) writing, including spelling and grammar, in grades  
20 four and seven;

21 (4) [~~English language arts, in grade 10,~~  
22 [~~45~~] social studies, in grade [~~grades~~] eight [~~and~~  
23 10];

24 (5) [~~46~~] science, in grades five and [~~7~~] eight [~~7, and~~  
25 10]; and

26 (6) [~~47~~] any other subject and grade required by  
27 federal law.

(c) The agency shall also adopt end-of-course ~~[secondary exit-level]~~ assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The Algebra I, Algebra II, and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled to account for 15 percent of the student's final grade for the course. If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course ~~[designed to be administered to students in grade 11 to assess essential knowledge and skills in mathematics, English language arts, social studies, and science. The mathematics section must include at least Algebra I and geometry with the aid of technology. The English language arts section must include at least English III and must include the assessment of essential knowledge and skills in writing. The social studies section must include early American and United States history. The science section must include at least biology and integrated chemistry and physics. The assessment instruments~~

1 ~~must be designed to assess a student's mastery of minimum skills~~  
2 ~~necessary for high school graduation and readiness to enroll in an~~  
3 ~~institution of higher education].~~ If a student is in a special  
4 education program under Subchapter A, Chapter 29, the student's  
5 admission, review, and dismissal committee shall determine whether  
6 any allowable modification is necessary in administering to the  
7 student an assessment instrument required under this subsection or  
8 whether the student should be exempted under Section 39.027(a)(2).  
9 The State Board of Education shall administer the assessment  
10 instruments. The State Board of Education shall adopt a schedule  
11 for the administration of end-of-course ~~[secondary exit-level]~~  
12 assessment instruments that complies with the requirements of  
13 Subsection (c-3). ~~[Each student who did not perform satisfactorily~~  
14 ~~on any secondary exit-level assessment instrument when initially~~  
15 ~~tested shall be given multiple opportunities to retake that~~  
16 ~~assessment instrument. A student who performs at or above a level~~  
17 ~~established by the Texas Higher Education Coordinating Board on the~~  
18 ~~secondary exit-level assessment instruments is exempt from the~~  
19 ~~requirements of Section 51.306.]~~

20 (c-1) The agency shall develop any assessment instrument  
21 required under this section in a manner that allows for the  
22 measurement of annual improvement in student achievement as  
23 required by Sections 39.034(c) and (d).

24 (c-2) The agency may adopt end-of-course assessment  
25 instruments for courses not listed in Subsection (c). A student's  
26 performance on an end-of-course assessment instrument adopted  
27 under this subsection is not subject to the performance

1 requirements established under Subsection (c) or Section 39.025.

2 (c-3) In adopting a schedule for the administration of  
3 assessment instruments under this section, the State Board of  
4 Education shall require:

5 (1) assessment instruments administered under  
6 Subsection (a) to be administered on a schedule so that the first  
7 assessment instrument is administered at least two weeks later than  
8 the date on which the first assessment instrument was administered  
9 under Subsection (a) during the 2006-2007 school year; and

10 (2) the spring administration of end-of-course  
11 assessment instruments under Subsection (c) to occur in each school  
12 district not earlier than the first full week in May, except that  
13 the spring administration of the end-of-course assessment  
14 instruments in English I, English II, and English III must be  
15 permitted to occur at an earlier date.

16 (c-4) To the extent practicable, the agency shall ensure  
17 that each end-of-course assessment instrument adopted under  
18 Subsection (c) is:

19 (1) developed in a manner that measures a student's  
20 performance under the college readiness standards established  
21 under Section 28.008; and

22 (2) validated by national postsecondary education  
23 experts for college readiness content and performance standards.

24 (c-5) A student's performance on an end-of-course  
25 assessment instrument required under Subsection (c) must be  
26 included in the student's academic achievement record.

27 (c-6) In adopting an end-of-course assessment instrument

under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:

(1) is aligned with the essential knowledge and skills of the subject being assessed; and

(2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

(e) Under rules adopted by the State Board of Education, every third ~~other~~ year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (1) after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

SECTION 9. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.0233 and 39.0234 to read as follows:

Sec. 39.0233. SPECIAL-PURPOSE QUESTIONS INCLUDED IN END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. The questions adopted under

1 this subsection must be developed in a manner consistent with any  
2 college readiness standards adopted under Sections 39.113 and  
3 51.3062.

4 (b) In addition to the questions adopted under Subsection  
5 (a), the agency shall adopt a series of questions to be included in  
6 an end-of-course assessment instrument administered under Section  
7 39.023(c) to be used for purposes of identifying students who are  
8 likely to succeed in an advanced high school course. A school  
9 district shall notify a student who performs at a high level on the  
10 questions adopted under this subsection and the student's parent or  
11 guardian of the student's performance and potential to succeed in  
12 an advanced high school course. A school district may not require a  
13 student to perform at a particular level on the questions adopted  
14 under this subsection in order to be eligible to enroll in an  
15 advanced high school course.

16 (c) The State Board of Education shall establish a level of  
17 performance on the questions adopted under this section that  
18 indicates a student's college readiness. A student's performance  
19 on the questions adopted under this section must be evaluated  
20 separately from the student's performance on the remainder of the  
21 assessment instrument. A student's performance on a question  
22 adopted under this section may not be used to determine the  
23 student's performance on the assessment instrument for purposes of  
24 Section 39.023 or 39.025. The commissioner shall adopt rules  
25 concerning the reporting of a student's performance on the  
26 questions adopted under this section.

27 (d) The questions adopted under this section must be



1 administered in a separate section of the end-of-course assessment  
2 instrument in which the questions are included.

3 Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY  
4 COMPUTER. (a) The agency shall ensure that assessment instruments  
5 required under Section 39.023 are capable of being administered by  
6 computer.

7 (b) Not later than September 1, 2008, each school district  
8 shall provide the agency with data regarding the ability of the  
9 district to administer to students assessment instruments required  
10 under Section 39.023 by computer. The agency shall compile the data  
11 provided by school districts under this subsection into a report  
12 recommending a plan and timeline for enabling each district in this  
13 state to administer the assessment instruments by computer. Not  
14 later than December 1, 2008, the agency shall deliver the report to  
15 each member of the legislature. This subsection expires June 1,  
16 2009.

17 SECTION 10. Section 39.025, Education Code, is amended to  
18 read as follows:

19 Sec. 39.025. SECONDARY-LEVEL ~~[EXIT-LEVEL]~~ PERFORMANCE  
20 REQUIRED. (a) The commissioner shall adopt rules requiring a  
21 student participating in the recommended or advanced high school  
22 program to be administered each end-of-course assessment  
23 instrument listed in Section 39.023(c) and requiring a student  
24 participating in the minimum high school program to be administered  
25 an end-of-course assessment instrument listed in Section 39.023(c)  
26 only for a course in which the student is enrolled and for which an  
27 end-of-course assessment instrument is administered. A student is

1 required to achieve, in each subject in the foundation curriculum  
2 under Section 28.002(a)(1), a cumulative score that is at least  
3 equal to the product of the number of end-of-course assessment  
4 instruments administered to the student in that subject and 70,  
5 with each end-of-course assessment instrument scored on a scale of  
6 100. A student must achieve a score of at least 60 on an  
7 end-of-course assessment instrument for the score to count towards  
8 the student's cumulative score. For purposes of this subsection, a  
9 student's cumulative score is determined using the student's  
10 highest score on each end-of-course assessment instrument  
11 administered to the student. A student may not receive a high  
12 school diploma until the student has performed satisfactorily on  
13 the end-of-course [secondary exit-level] assessment instruments  
14 in the manner provided under this subsection [for English language  
15 arts, mathematics, social studies, and science administered under  
16 Section 39.023(c)]. This subsection does not require a student to  
17 demonstrate readiness to enroll in an institution of higher  
18 education.

19 (a-1) The commissioner by rule shall determine a method by  
20 which a student's satisfactory performance on an advanced placement  
21 test, international baccalaureate examination, a Scholastic  
22 Assessment Test (SAT) Subject Test, or another assessment  
23 instrument determined by the commissioner to be at least as  
24 rigorous as an end-of-course assessment instrument adopted under  
25 Section 39.023(c) may be used as a factor in determining whether the  
26 student satisfies the requirements of Subsection (a), including the  
27 cumulative score requirement of that subsection.

1           (b) Each time an end-of-course ~~[a secondary exit-level]~~  
2 assessment instrument is administered, a student who failed to  
3 achieve a score of at least 60 on the assessment instrument shall  
4 retake the assessment instrument. Any other student may retake an  
5 end-of-course assessment instrument for any reason. A student is  
6 not required to retake a course as a condition of retaking an  
7 end-of-course assessment instrument ~~[a student who has not been~~  
8 ~~given a high school diploma because of a failure to perform~~  
9 ~~satisfactorily on the assessment instrument for that subject area~~  
10 ~~may retake the assessment instrument]~~.

11           (b-1) A school district shall provide each student who fails  
12 to achieve a score of at least 70 on an end-of-course assessment  
13 instrument with accelerated instruction in the subject assessed by  
14 the assessment instrument.

15           (b-2) If a school district determines that a student, on  
16 completion of grade 11, is unlikely to achieve the cumulative score  
17 requirements for one or more subjects prescribed by Subsection (a)  
18 for receiving a high school diploma, the district shall require the  
19 student to enroll in a corresponding content-area college  
20 preparatory course for which an end-of-course assessment  
21 instrument has been adopted, if available. A student who enrolls in  
22 a college preparatory course described by this subsection shall be  
23 administered an end-of-course assessment instrument for the  
24 course, with the end-of-course assessment instrument scored on a  
25 scale of 40. A student may use the student's score on the  
26 end-of-course assessment instrument for the college preparatory  
27 course towards satisfying the cumulative score requirements

1 prescribed by Subsection (a).

2 (c) A student who has been denied a high school diploma  
3 under this section [~~Subsections (a) and (b)~~] and who subsequently  
4 performs at the level necessary to comply with the requirements of  
5 this section [~~satisfactorily on each secondary exit-level~~  
6 ~~assessment instrument~~] shall be issued a high school diploma.

7 (d) Notwithstanding Subsection (a), the commissioner by  
8 rule shall adopt one or more alternative nationally recognized norm  
9 referenced assessment instruments under this section to administer  
10 to a student to qualify for a high school diploma if the student  
11 enrolls after January 1 of the school year in which the student is  
12 otherwise eligible to graduate:

13 (1) for the first time in a public school in this  
14 state; or

15 (2) after an absence of at least four years from any  
16 public school in this state.

17 (e) The commissioner shall establish a required performance  
18 level for an assessment instrument adopted under Subsection (d)  
19 that is at least as rigorous as the performance level required to be  
20 met under Subsection (a) [~~for the secondary exit-level assessment~~  
21 ~~instrument for the same subject~~].

22 (f) The commissioner shall by rule adopt a transition plan  
23 to implement the amendments made by S.B. No. 1031, Acts of the 80th  
24 Legislature, Regular Session, 2007, to this section and Sections  
25 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the  
26 end-of-course assessment instruments adopted under Section  
27 39.023(c) to be administered beginning with students entering the

1 ninth grade during the 2011-2012 school year. During the period  
2 under which the transition to end-of-course assessment instruments  
3 is made:

4 (1) for students entering a grade above the ninth  
5 grade during the 2011-2012 school year, the commissioner shall  
6 retain, administer, and use for campus and district ratings under  
7 Subchapter D the assessment instruments required by Section  
8 39.023(a) or (c), as that section existed before amendment by  
9 S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007;  
10 and

11 (2) the agency may defer releasing assessment  
12 instrument questions and answer keys as required by Section  
13 39.023(e) to the extent necessary to develop additional assessment  
14 instruments.

15 (g) Rules adopted under Subsection (f) must require that  
16 each student who will be subject to the requirements of Subsection  
17 (a) is entitled to notice of the specific requirements applicable  
18 to the student. Notice under this subsection must be provided not  
19 later than the date the student enters the eighth grade. Subsection  
20 (f) and this subsection expire September 1, 2015.

21 SECTION 11. Subchapter B, Chapter 39, Education Code, is  
22 amended by adding Sections 39.0261 and 39.0262 to read as follows:

23 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In  
24 addition to the assessment instruments otherwise authorized or  
25 required by this subchapter:

26 (1) each school year and at state cost, a school  
27 district shall administer to students in the spring of the eighth

1 grade an established, valid, reliable, and nationally  
2 norm-referenced preliminary college preparation assessment  
3 instrument for the purpose of diagnosing the academic strengths and  
4 deficiencies of students before entrance into high school;

5 (2) each school year and at state cost, a school  
6 district shall administer to students in the 10th grade an  
7 established, valid, reliable, and nationally norm-referenced  
8 preliminary college preparation assessment instrument for the  
9 purpose of measuring a student's progress toward readiness for  
10 college and the workplace; and

11 (3) high school students in the spring of the 11th  
12 grade or during the 12th grade may select and take once, at state  
13 cost, one of the valid, reliable, and nationally norm-referenced  
14 assessment instruments used by colleges and universities as part of  
15 their undergraduate admissions processes.

16 (b) The agency shall:

17 (1) select and approve vendors of the specific  
18 assessment instruments administered under this section; and

19 (2) pay all fees associated with the administration of  
20 the assessment instrument from funds allotted under the Foundation  
21 School Program, and the commissioner shall reduce the total amount  
22 of state funds allocated to each district from any source in the  
23 same manner described for a reduction in allotments under Section  
24 42.253.

25 (c) The agency shall ensure that vendors are not paid under  
26 Subsection (b) for the administration of an assessment instrument  
27 to a student to whom the assessment instrument is not actually

1 administered. The agency may comply with this subsection by any  
 2 reasonable means, including by creating a refund system under which  
 3 a vendor returns any payment made for a student who registered for  
 4 the administration of an assessment instrument but did not appear  
 5 for the administration.

6 (d) A vendor that administers an assessment instrument for a  
 7 district under this section shall report the results of the  
 8 assessment instrument to the agency. The agency shall:

9 (1) include a student's results on the assessment  
 10 instrument in the electronic student records system established  
 11 under Section 7.010; and

12 (2) ensure that a student and the student's parent  
 13 receive a report of the student's results on the assessment  
 14 instrument.

15 (e) Subsection (a)(3) does not prohibit a high school  
 16 student in the spring of the 11th grade or during the 12th grade  
 17 from selecting and taking, at the student's own expense, one of the  
 18 valid, reliable, and nationally norm-referenced assessment  
 19 instruments used by colleges and universities as part of their  
 20 undergraduate admissions processes more than once.

21 Sec. 39.0262. ADMINISTRATION OF LOCAL ASSESSMENT  
 22 INSTRUMENTS IN CERTAIN SUBJECT AREAS. (a) In a subject area for  
 23 which assessment instruments are administered under Section  
 24 39.023, a school district may not administer local assessment  
 25 instruments to any student on more than 10 percent of the  
 26 instructional days in any school year.

27 (b) The prohibition prescribed by this section does not

1 apply to the administration of a college preparation assessment  
2 instrument, an advanced placement test, an international  
3 baccalaureate examination, or an assessment instrument  
4 administered under Section 39.023.

5 SECTION 12. Subchapter B, Chapter 39, Education Code, is  
6 amended by adding Sections 39.0301, 39.0302, 39.0303, and 39.0304  
7 to read as follows:

8 Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT  
9 INSTRUMENTS. (a) The commissioner:

10 (1) shall establish procedures for the administration  
11 of assessment instruments adopted or developed under Section  
12 39.023, including procedures designed to ensure the security of the  
13 assessment instruments; and

14 (2) may establish record retention requirements for  
15 school district records related to the security of assessment  
16 instruments.

17 (b) The commissioner may develop and implement statistical  
18 methods and standards for identifying potential violations of  
19 procedures established under Subsection (a) to ensure the security  
20 of assessment instruments adopted or developed under Section  
21 39.023. In developing the statistical methods and standards, the  
22 commissioner may include indicators of:

23 (1) potential violations that are monitored annually;  
24 and

25 (2) patterns of inappropriate assessment practices  
26 that occur over time.

27 (c) The commissioner may establish one or more advisory



committees to advise the commissioner and agency regarding the monitoring of assessment practices and the use of statistical methods and standards for identifying potential violations of assessment instrument security, including standards to be established by the commissioner for selecting school districts for investigation for a potential assessment security violation under Subsection (e). The commissioner may not appoint an agency employee to an advisory committee established under this subsection.

(d) Any document created for the deliberation of an advisory committee established under Subsection (c) or any recommendation of such a committee is confidential and not subject to disclosure under Chapter 552, Government Code. Except as provided by Subsection (e), the statistical methods and standards adopted under this section and the results of applying those methods and standards are confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The agency may conduct an investigation of a school district for a potential violation of assessment instrument security in accordance with the standards described by Subsection (c). Each school year, after completing all investigations of school districts selected for investigation, the agency shall disclose the identity of each district selected for investigation and the statistical methods and standards used to select the district.

(f) At any time, the commissioner may authorize the audit of a random sample of school districts to determine the compliance of

1 the districts with procedures established under Subsection (a).  
2 The identity of each school district selected for audit under this  
3 subsection is confidential and not subject to disclosure under  
4 Chapter 552, Government Code, except that the agency shall disclose  
5 the identity of each district after completion of the audit.

6 (g) The state auditor may conduct a risk-based audit of a  
7 school district at any time to ensure the security of assessment  
8 instruments administered under Section 39.023 in the district.

9 Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency  
10 investigation or audit of a school district under Section  
11 39.0301(e) or (f), an accreditation investigation under Section  
12 39.075(a)(8), or an investigation by the State Board for Educator  
13 Certification of an educator for an alleged violation of an  
14 assessment instrument security procedure established under Section  
15 39.0301(a), the commissioner may issue a subpoena to compel the  
16 attendance of a relevant witness or the production, for inspection  
17 or copying, of relevant evidence that is located in this state.

18 (b) A subpoena may be served personally or by certified  
19 mail.

20 (c) If a person fails to comply with a subpoena, the  
21 commissioner, acting through the attorney general, may file suit to  
22 enforce the subpoena in a district court in this state. On finding  
23 that good cause exists for issuing the subpoena, the court shall  
24 order the person to comply with the subpoena. The court may punish  
25 a person who fails to obey the court order.

26 (d) All information and materials subpoenaed or compiled in  
27 connection with an investigation or audit described by Subsection

1 (a):

2 (1) are confidential and not subject to disclosure  
3 under Chapter 552, Government Code; and

4 (2) are not subject to disclosure, discovery,  
5 subpoena, or other means of legal compulsion for release to any  
6 person other than:

7 (A) the commissioner or the State Board for  
8 Educator Certification, as applicable;

9 (B) agency employees or agents involved in the  
10 investigation, as applicable; and

11 (C) the office of the attorney general, the state  
12 auditor's office, and law enforcement agencies.

13 Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL  
14 PENALTY. (a) A person commits an offense if:

15 (1) the person intentionally discloses the contents of  
16 any portion of a secure assessment instrument developed or  
17 administered under this subchapter, including the answer to any  
18 item in the assessment instrument; and

19 (2) the disclosure affects or is likely to affect the  
20 individual performance of one or more students on the assessment  
21 instrument.

22 (b) An offense under this section is a Class C misdemeanor.

23 Sec. 39.0304. TRAINING IN ASSESSMENT INSTRUMENT  
24 ADMINISTRATION. (a) To ensure that each administration of  
25 assessment instruments under Section 39.023 is valid, reliable, and  
26 in compliance with the requirements of this subchapter, the  
27 commissioner may require training for school district employees

1 involved in the administration of the assessment instruments.

2 (b) The training under Subsection (a) may include a  
3 qualifying component to ensure that school district employees  
4 involved in the administration of assessment instruments under  
5 Section 39.023 possess the necessary skills and knowledge required  
6 to administer the assessment instruments.

7 (c) The commissioner may adopt rules necessary to implement  
8 this section.

9 SECTION 13. Subsection (d), Section 39.034, Education Code,  
10 is amended to read as follows:

11 (d) The agency shall determine the necessary annual  
12 improvement required each year for a student to be prepared to  
13 perform satisfactorily on [pass] the end-of-course assessment  
14 instruments [exit-level assessment instrument] required under this  
15 subchapter for graduation. The agency shall report the necessary  
16 annual improvement required to the district. Each year, the report  
17 must state whether the student fell below, met, or exceeded the  
18 necessary target for improvement.

19 SECTION 14. Subchapter B, Chapter 39, Education Code, is  
20 amended by adding Sections 39.035, 39.0351, and 39.036 to read as  
21 follows:

22 Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT  
23 INSTRUMENTS. (a) Subject to Subsection (b), the agency may  
24 conduct field testing of questions for any assessment instrument  
25 administered under Section 39.023(a), (b), (c), (d), or (l) that is  
26 separate from the administration of the assessment instrument not  
27 more frequently than every other school year.

1        (b) Subsection (a) does not limit field testing necessary to  
2 develop new assessment instruments required under state or federal  
3 law.

4        (c) Before the beginning of each school year, the agency  
5 shall notify each school district regarding the required  
6 participation of the district in field testing activities during  
7 that school year.

8        Sec. 39.0351. FIELD TESTING STUDY. (a) The agency shall  
9 conduct a study of the sample size and sample procedures used in  
10 field testing of questions for assessment instruments administered  
11 under Section 39.023.

12        (b) The study required by Subsection (a) must also examine  
13 the feasibility of conducting field testing that is separate from  
14 the administration of an assessment instrument in the fall of the  
15 school year.

16        (c) Not later than December 1, 2008, the agency shall submit  
17 a report regarding the results of the study to the legislature.

18        (d) This section expires January 1, 2009.

19        Sec. 39.036. VERTICAL SCALE FOR CERTAIN ASSESSMENT  
20 INSTRUMENTS. (a) The agency shall develop a vertical scale for  
21 assessing student performance on assessment instruments  
22 administered under Sections 39.023(a)(1) and (2) in a manner that  
23 allows the agency to compare the performance of a student on the  
24 assessment instruments from one grade level to the next.

25        (b) The commissioner shall adopt rules necessary to  
26 implement this section.

27        (c) Not later than June 1, 2008, the agency shall develop a

1 vertical scale as required by Subsection (a). The agency shall  
2 implement the vertical scale in the administration of assessment  
3 instruments under Sections 39.023(a)(1) and (2) beginning with the  
4 2008-2009 school year. This subsection expires September 1, 2009.

5 SECTION 15. Subsection (b), Section 39.051, Education Code,  
6 is amended to read as follows:

7 (b) Performance on the indicators adopted under this  
8 section shall be compared to state-established standards. The  
9 degree of change from one school year to the next in performance on  
10 each indicator adopted under this section shall also be considered.  
11 The indicators must be based on information that is disaggregated  
12 by race, ethnicity, gender, and socioeconomic status and must  
13 include:

14 (1) the results of assessment instruments required  
15 under Sections 39.023(a), (c), and (l), aggregated by grade level  
16 and subject area;

17 (2) dropout rates, including dropout rates and  
18 district completion rates for grade levels 9 through 12, computed  
19 in accordance with standards and definitions adopted by the  
20 National Center for Education Statistics of the United States  
21 Department of Education;

22 (3) high school graduation rates, computed in  
23 accordance with standards and definitions adopted in compliance  
24 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

25 (4) student attendance rates;

26 (5) the percentage of graduating students who attain  
27 scores on the questions developed for end-of-course ~~[secondary~~

1 ~~exit-level]~~ assessment instruments under Section 39.0233(a)  
2 ~~[required under Subchapter B]~~ that are equivalent to a passing  
3 score on the assessment instrument required under Section 51.3062;

4 (6) the percentage of graduating students who meet the  
5 course requirements established for the recommended high school  
6 program by State Board of Education rule;

7 (7) the results of the Scholastic Assessment Test  
8 (SAT), the American College Test (ACT), articulated postsecondary  
9 degree programs described by Section 61.852, and certified  
10 workforce training programs described by Chapter 311, Labor Code;

11 (8) the percentage of students, aggregated by grade  
12 level, provided accelerated instruction under Section 28.0211(c),  
13 the results of assessments administered under that section, the  
14 percentage of students promoted through the grade placement  
15 committee process under Section 28.0211, the subject of the  
16 assessment instrument on which each student failed to perform  
17 satisfactorily, and the performance of those students in the school  
18 year following that promotion on the assessment instruments  
19 required under Section 39.023;

20 (9) for students who have failed to perform  
21 satisfactorily on an assessment instrument required under Section  
22 39.023(a) or (c), the numerical progress of those students grouped  
23 by percentage on subsequent assessment instruments required under  
24 those sections, aggregated by grade level and subject area;

25 (10) the percentage of students exempted, by exemption  
26 category, from the assessment program generally applicable under  
27 this chapter;

1           (11) the percentage of students of limited English  
2 proficiency exempted from the administration of an assessment  
3 instrument under Sections 39.027(a)(3) and (4);

4           (12) the percentage of students in a special education  
5 program under Subchapter A, Chapter 29, assessed through assessment  
6 instruments developed or adopted under Section 39.023(b);

7           (13) the measure of progress toward preparation for  
8 postsecondary success; and

9           (14) the measure of progress toward dual language  
10 proficiency under Section 39.034(b), for students of limited  
11 English proficiency, as defined by Section 29.052.

12           SECTION 16. Subsection (a), Section 39.075, Education Code,  
13 is amended to read as follows:

14           (a) The commissioner shall authorize special accreditation  
15 investigations to be conducted:

16               (1) when excessive numbers of absences of students  
17 eligible to be tested on state assessment instruments are  
18 determined;

19               (2) when excessive numbers of allowable exemptions  
20 from the required state assessment instruments are determined;

21               (3) in response to complaints submitted to the agency  
22 with respect to alleged violations of civil rights or other  
23 requirements imposed on the state by federal law or court order;

24               (4) in response to established compliance reviews of  
25 the district's financial accounting practices and state and federal  
26 program requirements;

27               (5) when extraordinary numbers of student placements



1 in disciplinary alternative education programs, other than  
2 placements under Sections 37.006 and 37.007, are determined;

3 (6) in response to an allegation involving a conflict  
4 between members of the board of trustees or between the board and  
5 the district administration if it appears that the conflict  
6 involves a violation of a role or duty of the board members or the  
7 administration clearly defined by this code;

8 (7) when excessive numbers of students in special  
9 education programs under Subchapter A, Chapter 29, are assessed  
10 through assessment instruments developed or adopted under Section  
11 39.023(b); ~~[or]~~

12 (8) in response to an allegation regarding or an  
13 analysis using a statistical method result indicating a possible  
14 violation of an assessment instrument security procedure  
15 established under Section 39.0301, including for the purpose of  
16 investigating or auditing a school district under that section; or

17 (9) as the commissioner otherwise determines  
18 necessary.

19 SECTION 17. Subsection (q), Section 51.3062, Education  
20 Code, is amended to read as follows:

21 (q) A student who has achieved scores ~~[a score]~~ set by the  
22 board on the questions developed for end-of-course assessment  
23 instruments ~~[an exit-level assessment instrument required]~~ under  
24 Section 39.0233(a) ~~[39.023]~~ is exempt from the requirements of this  
25 section. The exemption is effective for the three-year period  
26 following the date a student takes the last assessment instrument  
27 for purposes of this section and achieves the standard set by the

board. This subsection does not apply during any period for which the board designates the questions developed for end-of-course assessment instruments [~~exit-level assessment instrument required~~] under Section 39.0233(a) [~~39.023~~] as the primary assessment instrument under this section, except that the three-year period described by this subsection remains in effect for students who qualify for an exemption under this subsection [~~section~~] before that period.

SECTION 18. Subsection (j), Section 39.023, Education Code, is repealed.

SECTION 19. A reference in the Education Code to an end-of-course assessment instrument administered under Subsection (c), Section 39.023, Education Code, includes an exit-level assessment instrument administered under that section as provided by Subsection (f), Section 39.025, Education Code, as added by this Act.

SECTION 20. On the expiration of any contract entered into before September 1, 2007, between the Texas Education Agency and a vendor for the development of assessment instruments required under Section 39.023, Education Code, the Texas Education Agency shall issue a request for proposals for the development of end-of-course assessment instruments required under Section 39.023(c), Education Code, as amended by this Act. The Texas Education Agency may allow a vendor with whom the agency has contracted for the development of assessment instruments under Section 39.023, Education Code, before September 1, 2007, to begin developing end-of-course assessment instruments required under Section 39.023(c), Education

1 Code, as amended by this Act, before the expiration of the contract.

2 SECTION 21. Not later than September 1, 2011, the  
3 legislature shall enact a public school accountability system that  
4 is aligned with the provisions of this Act.

5 SECTION 22. Section 39.035, Education Code, as added by  
6 this Act, applies beginning with the 2008-2009 school year.

7 SECTION 23. (a) Except as otherwise provided by this Act,  
8 this Act applies beginning with the 2007-2008 school year.

9 (b) Beginning with the 2007-2008 school year, the  
10 commissioner of education may conduct random audits as authorized  
11 under Subsection (f), Section 39.0301, Education Code, as added by  
12 this Act. Beginning with the 2008-2009 school year, the  
13 commissioner of education may conduct accreditation investigations  
14 as authorized under Subdivision (8), Subsection (a), Section  
15 39.075, Education Code, as added by this Act.

16 (c) During the 2008-2009 school year, the commissioner of  
17 education may use the statistical methods and standards established  
18 under Subsection (b), Section 39.0301, Education Code, as added by  
19 this Act, on a pilot basis to test the accuracy and predictive  
20 validity of the methods and standards. Pilot statistical methods  
21 and standards developed for use in the 2008-2009 school year are  
22 confidential and not subject to disclosure under Chapter 552,  
23 Government Code. Without releasing the pilot statistical methods,  
24 the commissioner of education shall release the results of any  
25 investigation conducted on the basis of those methods during the  
26 2008-2009 school year on completion of the investigation.

27 SECTION 24. This Act takes effect September 1, 2007.

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SENATE VERSION

No equivalent provision.

HOUSE VERSION

SECTION \_\_. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.032 as follows:  
Sec. 7.032. SUMMARY REPORT ON PUBLIC EDUCATION ACCOUNTABILITY MANDATES.  
(a) - (c) Defines "public education accountability mandate" to mean an accountability requirement established by federal or state law and requires the agency (TEA) to prepare a summary report identifying each public education accountability mandate that applies in this state and referencing the federal or state law authorizing the mandate, to make the summary report available as an electronic document on the agency's Internet website, and to update the electronic document periodically.  
(d) Requires TEA, not later than December 1, 2008, to deliver an electronic copy of the summary report to the governor, lieutenant governor, speaker of the house, and the chairs of the standing legislative committees with primary jurisdiction over public education. The report must include whether a mandate imposed by federal law duplicates all or part of a mandate imposed by state law and whether any conflict exists between federal and state mandates.  
(e) Subsection (d) and this subsection expire January 15, 2009.

Senate

CONFERENCE

No equivalent provision.

SECTION \_\_. Section 12.104(b), Education Code, is amended to make a conforming change, subjecting an

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	open-enrollment charter school to the state requirements for promotion, rather than to requirements for satisfactory performance on assessment instruments under Section 28.0211.	
SECTION 1. Subsection (b), Section 18.006, Education Code, is amended.	Same as Senate version.	Senate
SECTION 2. Subsection (b), Section 21.006, Education Code, is amended.	Same as Senate version.	Senate
SECTION 3. Subsection (b), Section 25.005, Education Code, is amended.	Same as Senate version.	Senate
No equivalent provision.	SECTION __. Section 28.0211, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to prohibit a student from being promoted to the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily in the eighth grade reading and mathematics courses in which the student is enrolled, including a failure to perform satisfactorily in the courses due to the student's failure to perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023. For purposes of this	Senate

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section, entitles a student to retake an assessment instrument specified above and to receive accelerated instruction in the manner provided by this section if the student's failure to perform satisfactorily in the eighth grade reading and mathematics courses in which the student is enrolled is due to the student's failure to perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

No equivalent provision.

SECTION \_\_. Section 28.0211, Education Code, is amended by amending Subsections (a), (c), and (f) and adding Subsections (c-1), (c-2), (c-3), (c-4), and (p) as follows:

(a) Changes the exception to the prohibition against a student's promotion to the fourth grade, sixth grade, or ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the designated assessment instruments under Section 39.023 to be as provided by Subsection (c-3) rather than (b) or (e).

(c) Requires a school district to provide a student in the district who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) the first time with an opportunity to take the assessment instrument a second time. Requires the district, before administering the assessment instrument to the student a second time, to establish a grade placement committee to

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prescribe the accelerated instruction that must be provided by the district to the student and to establish an educational plan for the student designed to enable the student to perform at the appropriate grade level by the end of the school year. [*Current law requires the district to establish the committee before the third administration of the assessment instrument.*] Maintains the current cap on student-teacher ratios for an accelerated instruction group administered by a district under this section.

(c-1) Provision in current law that prescribes the grade placement committee's composition and imposes certain parental notification requirements is moved from (c) to (c-1).

(c-2) Requires the district, in addition to providing accelerated instruction and establishing an educational plan for a student under Subsection (c), to notify the student's parent or guardian of: (1) the student's failure to perform satisfactorily on the assessment instrument; (2) the accelerated instruction program to which the student is assigned; (3) the educational plan developed for the student; (4) the opportunity for the student to take the assessment instrument a second time; and (5) the possibility that the student might be retained at the same grade level for the next school year if the student fails to perform satisfactorily after taking the assessment instrument a second time.

(c-3) Requires the grade placement committee, if a student fails to perform satisfactorily on an assessment instrument a second time, to determine whether the

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student should be promoted. Allows the committee to promote the student if it determines that the student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level. Requires the committee, if it determines that the student should not be promoted, to provide the student with an opportunity to take the assessment instrument a third time. If the student's parent or guardian declines the opportunity for the student to take the assessment instrument a third time or if the student takes the assessment instrument a third time and fails to perform satisfactorily on the assessment instrument, prohibits the student from being promoted to the next grade level unless the committee determines that the student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level. Prohibits a student from being retained on the basis of the committee's decision unless that decision is unanimous. Requires the commissioner by rule to establish a time line for making the placement determination. This subsection does not create a property interest in promotion.

(c-4) Requires the grade placement committee, in determining whether a student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level under Subsection (c-3) to consider: (1) evidence of the student's satisfactory performance, including grades, portfolios, work samples, local assessments, and individual reading and



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mathematics diagnostic tests or inventories; (2) the student's grades in language arts, mathematics, science, and social studies for the grade level from which the student seeks promotion; (3) the student's performance on the individual assessment instruments administered to the student under Section 39.023; (4) the student's total scores on the assessment instrument or instruments specified by Subsection (a); and (5) extenuating circumstances that have adversely affected the student's participation in the required assessments.

(f) Substantially the same as current law except requires a school district to provide to a student who has failed twice, rather than three times, to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by the educational plan developed for the student by the student's grade placement committee.

(p) Requires a teacher, if at any point during the school year the teacher determines that a student who is required to take an assessment instrument specified under Subsection (a) is not performing at grade level, to notify the student's parent or guardian in writing and by telephone and request a conference with the parent or guardian at least 30 days before the first day on which the assessment instrument is administered to the student.

SECTION 4. Subsection (b), Section 29.081, Education Code, is amended.

Same as Senate version.

Senate

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SECTION 5. Subsection (f), Section 29.087, Education Code, as amended by Chapters 283 and 373, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended.	Same as Senate version.	Senate
SECTION 6. Subsection (e), Section 30.021, Education Code, is amended.	Same as Senate version.	Senate
No equivalent provision.	SECTION __. Chapter 39, Education Code, is amended by adding Subchapter A as follows: SUBCHAPTER A. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL ACCOUNTABILITY SYSTEM Sec. 39.001. SELECT COMMITTEE ON PUBLIC SCHOOL ACCOUNTABILITY. (a) Creates the Select Committee on Public School Accountability to conduct a comprehensive review of the public school accountability system. (b) Specifies the 15-member committee's composition, including both ex officio members and appointed members as follows: (1) the chairs of the legislative standing committees with primary jurisdiction over public education; (2) one senator, appointed by the lieutenant governor; (3) one state representative, appointed by the speaker of the house; (4) the commissioner; (5) the commissioner of higher education;	House

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(6) one public school teacher, one public school principal, and one public school district superintendent, each currently employed in this state and each appointed jointly by the lieutenant governor and the speaker of the house; (7) two educators each currently employed in a Texas public school and appointed jointly by the lieutenant governor and the speaker of the house; (8) one business community representative or public member appointed by the lieutenant governor; (9) one business community representative or public member appointed by the speaker of the house; and (10) two representatives from the business community and the public, at least one of whom has one or more children who currently attend public school in this state, appointed by the governor.

(c) Requires the governor, lieutenant governor, and speaker of the house to make the required appointments in a timely fashion to permit the committee to comply with Section 39.002(a).

Sec. 39.002. COMMITTEE MEETINGS. Requires the committee to hold an organizational meeting not later than October 1, 2007, provides that the presiding officers described by Section 39.001(b)(1) serve as co-chairs of the committee, and requires committee meetings to be held at the call of the co-chairs.

Sec. 39.003. COMPENSATION AND REIMBURSEMENT. Entitles a committee member to reimbursement for actual and necessary expenses incurred in performing committee duties. Entitles a legislative committee member to reimbursement from

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the appropriate fund of the legislative chamber in which the member serves, and entitles a nonlegislative committee member to reimbursement from funds appropriated to the committee.

Sec. 39.004. COMMITTEE STAFF. Requires staff members of the standing committees described by Section 39.001(b)(1) to serve as the staff of the committee.

Sec. 39.005. OBJECTIVES OF STUDY. (a) Requires the committee to conduct a comprehensive review of the public school accountability system and, in conducting its review, to study the mission, organizational structure, design, processes, and practices of similar accountability systems in other states and the requirements established by federal law.

(b) Sets forth a number of items that must be included in the review.

(c) Requires the committee to conduct public hearings throughout the state and solicit testimony about the accountability system from parents of public school children and other interested persons. At least one public hearing must be held at a public school during a time that public school students are able to attend the hearing.

(d) Requires the commissioner to ensure that the committee has access to any documentation and agency personnel it requests.

(e) Requires the Legislative Budget Board, comptroller, state auditor, and any other state agency, official, or personnel to cooperate with the committee in carrying

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out its duties.  
(f) Allows the committee to coordinate this study with any other legislative study, as appropriate.  
Sec. 39.006. REPORT. (a) Requires the committee, not later than December 1, 2008, to provide a report stating the study's findings and including any recommendations for statutory changes.  
(b) Requires the report to be approved by a majority of the committee and allows a member who disagrees with any part of the report to attach a dissenting statement.  
Sec. 39.007. EXPIRATION. This subchapter expires January 13, 2009.

SECTION 7. Section 39.023, Education Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (c-1), (c-2), and (c-3) as follows:

(a) Makes conforming changes to reflect the elimination of the high school mathematics, reading, English language arts, social studies, and science assessments previously required.

No equivalent provision.

SECTION 7. Section 39.023, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1), (a-2), (c-1) (two versions), (c-2), (c-3), (c-4) (two versions), (c-5), and (c-6) as follows:

(a) Same as Senate version, except requires the social studies assessment instrument to include Texas history.

(a-1) Requires the SBOE by rule to require each assessment instrument administered under Subsection (a) to students in grade six, seven, or eight to be an end-of-course assessment instrument. Requires a school district

Senate

Senate

Senate

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to comply with SBOE rules regarding administration of the end-of-course assessment instruments to students in grade six, seven, or eight and to adopt a policy that requires a student's performance on an end-of-course assessment instrument to account for 15 percent of the student's final grade for the course in which the assessment instrument is administered. Requires the end-of-course assessment instruments to be designed to assess the student's essential knowledge and skills in the designated course, the student's mastery of minimum skills necessary for promotion to the next grade level, and the student's readiness for advanced coursework.

No equivalent provision.

(a-2) Requires the SBOE to adopt rules requiring each assessment instrument administered under Subsection (a) to students in grade six, seven, or eight to be an end-of-course assessment instrument beginning with the 2011-2012 school year. This subsection expires August 1, 2012.

Senate

(c) Among other provisions, requires TEA to adopt end-of-course, rather than secondary exit-level, assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history.

(c) Same as Senate version except also requires the Algebra I, Algebra II, and geometry end-of-course assessment instruments to be administered with the aid of technology.

House, except also provides that if a student retakes a required end-of-course assessment instrument, a school district is not required to use the student's performance to determine the student's final grade for the course, and deletes redundant language regarding the provision of multiple opportunities to retake an assessment instrument.

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(c-1) Requires TEA to <i>develop</i> any assessment instrument required under this section in <i>a manner that allows</i> for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).	(c-1) Provides that any assessment instrument required under this section <i>must allow</i> for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).	Senate
(c-2)	(c-2) Same as Senate version.	Senate
(c-3) Requires the SBOE, in adopting a schedule for the administration of assessment instruments under this section, to require (1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first administration occurs at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and (2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I, English II, and English III must be permitted to occur at an earlier date.	(c-3) Substantially the same as Senate version except omits the provision in (1) that delays the first administration of the assessment instrument so that it occurs at least two weeks later than the date of the first administration that occurred during the 2006-2007 school year.	Senate
No equivalent provision.	(c-4) Requires TEA, in adopting an end-of-course assessment instrument under this section, to consider the use of an existing assessment instrument that is currently	House, modified to specify that off-the-shelf tests that may be adopted must be aligned to the state curriculum and allow for improvement to be measured.

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	available.	
No equivalent provision.	(c-4) Requires TEA, to the extent practicable, to ensure that each end-of-course assessment instrument adopted under Subsection (c) is developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008 and is validated by national postsecondary education experts for college readiness content and performance standards.	House
No equivalent provision.	(c-5) Requires inclusion of a student's performance on an end-of-course assessment instrument required under Subsection (c) in the student's academic achievement record.	House
(e) Lengthens the interval, from every other year to every third year, when TEA is required to release the questions and answer keys to each specified assessment instrument administered after the last time the instrument is administered for that school year.	No equivalent provision.	Senate
No equivalent provision.	SECTION __. Section 39.023, Education Code, is amended by adding Subsection (c-1) to require the SBOE, in adopting a schedule for the administration of assessment instruments under this section, to require assessment instruments administered under Subsection	Senate



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(a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year.

SECTION 8. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.0233 and 39.0234 as follows:

SECTION 8. Same as Senate version except as follows:

Sec. 39.0233. *OPTIONAL QUESTIONS MEASURING COLLEGE READINESS*. Requires TEA, in coordination with the Texas Higher Education Coordinating Board, to adopt a series of *optional questions* to be included, *where applicable*, in an end-of-course assessment instrument administered under Section 39.023(c) to be used, *as appropriate*, for purposes of Section 51.3062 *or to assess a student's readiness for advanced coursework*. Requires the *optional questions* to be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 and 51.3062. Prohibits a student's performance on an optional question adopted under this section from being used to determine the student's performance on an end-of-course assessment instrument.

Sec. 39.0233. *SPECIAL PURPOSE QUESTIONS INCLUDED IN END-OF-COURSE ASSESSMENT INSTRUMENTS*. (a) Requires TEA, in coordination with the Texas Higher Education Coordinating Board, to adopt a series of *questions* to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. Requires the *questions adopted under this subsection* to be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 and 51.3062.

House, modified so that questions are separate and not embedded.

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No equivalent provision.	<p>(b) In addition to the questions adopted under Subsection (a), requires TEA to adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. Requires a school district to notify a student who performs at a high level on the questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. Prohibits a district from requiring a student to perform at a particular level on the questions adopted under this subsection to be eligible to enroll in an advanced high school course.</p> <p>(c) Requires the SBOE to establish a level of performance on the questions adopted under this section that indicates a student's college readiness. Requires a student's performance on these questions to be evaluated separately from the student's performance on the remainder of the assessment instrument and prohibits a student's performance on a question adopted under this section from being used to determine the student's performance on the assessment instrument for purposes of Section 39.023 or 39.025. Requires the commissioner to adopt rules concerning the reporting of a student's performance on the questions adopted under this section.</p>	House, modified so that questions are separate and not embedded
Sec. 39.0234. ADMINISTRATION OF ASSESSMENT	Sec. 39.0234. Same as Senate version except requires	House

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INSTRUMENTS BY COMPUTER. Among other provisions, requires TEA to *provide for* assessment instruments required under Section 39.023 *to be designed so that those assessment instruments can be* administered by computer.

No equivalent provision.

SECTION 9. Section 39.025, Education Code, is amended as follows:

Sec. 39.025. SECONDARY-LEVEL PERFORMANCE REQUIRED. (a) Requires the commissioner to adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course

HOUSE VERSION

TEA to *ensure that* assessment instruments required under Section 39.023 *are capable of being* administered by computer.

SECTION \_\_. Section 39.024, Education Code, is amended by adding Subsection (c-1) to require a school district to offer courses or tutoring to each student who fails to achieve the college readiness standard established under Section 39.0233(c) to help the student achieve that standard.

SECTION 9. Section 39.025, Education Code, is amended as follows:

Sec. 39.025. SECONDARY-LEVEL PERFORMANCE REQUIRED. (a) Requires the commissioner to adopt rules requiring each high school student enrolled in a course for which an end-of-course assessment instrument is adopted under Section 39.023(c) to be administered the assessment instrument. Prohibits a student from receiving a high school diploma until the student has performed satisfactorily in the following courses:  
(1) English language arts III;  
(2) either Algebra II or geometry;

CONFERENCE

Senate

Senate

Senate, modified so that a cumulative score is required within each content area and so that only a score of at least 60 is used to compute the cumulative score.

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assessment instrument is administered. A student is required to achieve a cumulative score that is at least equal to the product of the number of end-of-course assessment instruments administered to the student and 70, with each end-of-course assessment instrument scored on a scale of 100. For purposes of this subsection, a student's cumulative score is determined using the student's highest score on each end-of-course assessment instrument administered to the student. A student may not receive a high school diploma until the student has performed satisfactorily on the end-of-course assessment instruments in the manner provided under this subsection. Provides that this subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-1) Requires the commissioner by rule to *determine a method by which* a student's satisfactory performance on an advanced placement test, international baccalaureate examination, an SAT Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) *may be used as a factor in determining whether the student satisfies the requirements of Subsection (a), including the cumulative score requirement of that subsection.*

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- (3) either biology, chemistry, or physics; and
- (4) either world geography, world history, or United States history.
- (a-1) Provides that Subsection (a) does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-2) Substantially the same as Senate version except requires the commissioner by rule to *allow* a student's satisfactory performance on the specified tests *to be used toward satisfaction of a requirement of Subsection (a).*

CONFERENCE

Senate

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No equivalent provision.

(b) Allows a student who has not been given a high school diploma because of a failure to perform satisfactorily on the assessment instrument to retake the assessment instrument each time an end-of-course assessment instrument is administered.

No equivalent provision.

No equivalent provision.

(c) Requires that a high school diploma be issued to a

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(a-3) Notwithstanding Section 39.023(c), provides that a student's performance on an end-of-course assessment instrument for a course listed in Subsection (a) in which the student is required to perform satisfactorily to receive a high school diploma accounts for 25 percent of the student's final grade for the course.

(b) Substantially the same as Senate version except applies to a student who has not been given a high school diploma because of a failure to perform satisfactorily *in each necessary course due to a failure to perform satisfactorily* on the *end-of-course* assessment instrument for that *course*, and also stipulates that a student is not required to retake a course as a condition of retaking an assessment instrument under this subsection.

No equivalent provision.

No equivalent provision.

(c) Same as Senate version except requires that a high

CONFERENCE

Senate

Senate, except requires a student who fails to score at least 60 on an assessment instrument to retake the assessment instrument and provides that a student is not required to retake a course in order to retake the assessment instrument.

(b-1) Requires a school district to provide accelerated instruction to a student who fails to score at least 70 on an end-of-course assessment instrument

(b-2) Requires a student who, on completion of grade 11, appears unlikely to achieve the cumulative score required for graduation, to enroll in appropriate college preparatory course, and provides that this assessment instrument is scored on a scale of 40 and that this score can be used to satisfy the cumulative score requirement.

Senate

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student who has been denied a diploma under this section and who subsequently performs *at the level necessary to comply with the requirements of this section*.

(d)

(e) Requires the commissioner to establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level *required to be met under Subsection (a)*.

(f) Among other provisions, requires the commissioner by rule to adopt a transition plan to implement the amendments made by S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007, to this section and Sections 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the *2009-2010* school year. During the period under which the transition to end-of-course assessment instruments is made for students entering a grade above the ninth grade during the *2009-2010* school year, requires the commissioner to retain, administer, and use for campus and district ratings under Subchapter D

HOUSE VERSION

school diploma be issued to a student who has been denied a diploma under this section and who subsequently performs *satisfactorily in each necessary course*.

(d) Same as Senate version.

(e) Same as Senate version except specifies a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level *for the end-of-course assessment instrument for the same subject*.

(f) Same as Senate version except that the rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the *2011-2012* school year and the commissioner's retention, administration, and use of the specified assessment instruments applies to students entering a grade above the ninth grade during the *2011-2012* school year.

CONFERENCE

Senate

Senate

Senate, modified to include House implementation date of 2011-2012

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the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007.

(g) Stipulates that the rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the *eighth grade*. Subsection (f) and this subsection expire September 1, 2013.

(g) Same as Senate version except that notice under this subsection must be provided not later than the date the student enters the *seventh grade* and the expiration for Subsection (f) and this subsection is delayed to September 1, 2015.

Senate, modified to be House date of 2015.

SECTION 10. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0261 as follows:

Same as Senate version.

Senate, except also adds Section 39.0262.

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) Sets forth certain requirements of the school district in administering to its students college preparation and assessment instruments, in addition to the assessment instruments otherwise authorized or required by this subchapter (Assessment of Academic Skills).

(b) Requires TEA to select and approve vendors of the specific assessment instruments administered under this section and to pay all fees associated with the

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administration of such assessment instruments from funds allotted from the Foundation School Program. Requires the commissioner to reduce the total amount of state funds allotted to each district from any source in the manner described for a reduction in allotments under Section 42.253.

(c) Requires TEA to ensure that vendors are not paid under Subsection (b) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. Authorizes TEA to comply with this subsection by any reasonable means, including the creation of a refund system under which a vendor returns any payments for a student who registered for the assessment instrument but did not appear for its administration.

(d) Requires a vendor that administers an assessment instrument under this section to report the results in the college instrument to TEA. Requires TEA to include a student's results on the assessment instrument in the electronic student records system established under Section 7.010 and to ensure that the student and the student's parent receive a report of such results.

(e) Provides that Subsection (a)(3) (regarding the taking, at state cost, of a college instrument as part of the undergraduate admissions process) does not prohibit a high school student in the spring of 11<sup>th</sup> grade or during

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the 12<sup>th</sup> grade from selecting and taking, at the student's own expense, one of the assessment instruments as part of their undergraduate admissions process more than once.

No equivalent provision.

SECTION 11. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.0301, 39.0302, and 39.0303 as follows:

Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT INSTRUMENTS. Among other provisions, in Subsection (g) allows the state auditor to conduct a risk-based audit of a school district at any time to ensure the security of assessment instruments administered under Section 39.023 in the district.

**HOUSE VERSION**

No equivalent provision.

SECTION 11. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.0301, 39.0302, 39.0303, and 39.0304 as follows:

Sec. 39.0301. Same as Senate version except omits Subsection (g) providing for the audit.

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Section 39.0262. ADMINISTRATION OF LOCAL ASSESSMENT INSTRUMENTS IN CERTAIN SUBJECT AREAS. For subjects assessed under the state assessment program, prohibits a district from administering local assessment instruments to a student on more than 10 percent of the instructional days in a school year. Provides exceptions for certain tests, such as college preparation assessment instruments and advanced placement tests.

Senate

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Sec. 39.0302. ISSUANCE OF SUBPOENAS.	Sec. 39.0302. Same as Senate version.	Senate
Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL PENALTY.	Sec. 39.0303. Same as Senate version.	Senate
No equivalent provision.	Sec. 39.0304. TRAINING IN ASSESSMENT INSTRUMENT ADMINISTRATION. (a) To ensure that each administration of assessment instruments under Section 39.023 is valid, reliable, and in compliance with the requirements of this subchapter, allows the commissioner to require training for school district employees involved in the test administration. (b) Provides that the training under Subsection (a) may include a qualifying component to ensure that school district employees involved in the test administration possess the necessary skills and knowledge required to administer the assessment instruments. (c) Grants rulemaking authority to the commissioner.	House
SECTION 12. Subsection (d), Section 39.034, Education Code, is amended.	Same as Senate version.	Senate
SECTION 13. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.035 and 39.0351 to read as follows:	SECTION __. Subchapter B, (Patrick Amendment 7) Chapter 39, Education Code, is amended by adding Section 39.035 to read as follows:	Senate, except also adds Section 39.036.

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Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) Subject to Subsection (b), the agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instrument not more frequently than every other school year.

(b) Subsection (a) does not limit field testing necessary to develop new assessment instruments required under state or federal law.

(c) Before the beginning of each school year, the agency shall notify each school district regarding the required participation of the district in field testing activities during that school year.

Sec. 39.0351. FIELD TESTING STUDY. (a) The agency shall conduct a study of the sample size and sample procedures used in field testing of questions for assessment instruments administered under Section 39.023.

(b) The study required by Subsection (a) must also examine the feasibility of conducting field testing that is separate from the administration of an assessment instrument in the fall of the school year.

(c) Not later than December 1, 2008, the agency shall submit a report regarding the results of the study to the legislature.

(d) This section expires January 1, 2009.

HOUSE VERSION

Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) The agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instruments:

(1) only during the spring semester after the assessment instruments are administered; and

(2) on the same school campus only once during a period of four school years.

(b) The agency shall ensure that field testing is conducted on a rotating basis among campuses in the state.

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No equivalent provision.

HOUSE VERSION

SECTION 13. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.035 and 39.036 to read as follows:

Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) The agency shall limit field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) to the minimum number of field tests necessary to ensure the validity of the questions.

(b) The agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instrument only in a manner that minimizes the frequency with which any particular campus is required to administer the field tests.

Sec. 39.036. VERTICAL SCALE FOR CERTAIN ASSESSMENT INSTRUMENTS. (a) The agency shall develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows the agency to compare the performance of a student on the assessment instruments from one grade level to the next.

(b) The commissioner shall adopt rules necessary to implement this section.

(c) Not later than June 1, 2008, the agency shall develop a vertical scale as required by Subsection (a). The agency shall implement the vertical scale in the administration of assessment instruments under Sections

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Senate, except also adds Section 39.036.

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39.023(a)(1) and (2) beginning with the 2008-2009 school year. This subsection expires September 1, 2009.

SECTION 14. Subsection (b), Section 39.051, Education Code, is amended to revise the academic excellence indicator required in Subdivision (5) to reflect the percentage of graduating students who attain scores on the *optional questions* developed for end-of-course assessment instruments under Section 39.0233 that are equivalent to a passing score on the assessment instrument required under Section 51.3062.

SECTION 14. Same as Senate version except makes conforming changes in Subdivision (5) and amends the indicator in Subdivision (8) to reflect the subject of the assessment instrument on which *or the subject in which* certain students failed to perform satisfactorily.

Senate, modified to exclude 'optional'

SECTION 15. Subsection (a), Section 39.075, Education Code, is amended.

SECTION 15. Substantially the same as Senate version.

Senate

SECTION 16. Subsection (q), Section 51.3062, Education Code, is amended to exempt a student who has achieved scores set by the board on the *optional questions* developed for end-of-course assessment instruments under Section 39.0233 from the requirement to be assessed as an undergraduate student for purposes of determining the student's readiness to undertake freshman level college coursework.

SECTION 16. Same as Senate version except makes conforming changes.

House

No equivalent provision.

SECTION \_\_. Sections 28.0211(b), (d), and (e),

Senate

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Education Code, are repealed.

SECTION 17. Subsection (j), Section 39.023, Education Code, is repealed.

SECTION 17. Same as Senate version except also repeals Subchapters C, D, and E, Chapter 39, Education Code, effective September 1, 2011.

Senate, modified to include requirement that the Legislature shall adopt a new public school accountability system by 2011.

SECTION 18. Provides that a reference in the Education Code to an end-of-course assessment instrument administered under Subsection (c), Section 39.023, Education Code, includes an exit-level assessment instrument administered under that section as provided by Subsection (f), Section 39.025, Education Code, as added by this Act.

SECTION 18. Substantially the same as Senate version.

Senate

SECTION 19. Makes Section 39.035, Education Code, as added by this Act, applicable beginning with the 2008-2009 school year.

No equivalent provision.

Senate

SECTION 20. (a) Provides that, except as otherwise provided by this Act, this Act applies beginning with the 2007-2008 school year.

SECTION 19. Substantially the same as Senate version.

Senate

(b) Allows the commissioner of education, beginning with the 2007-2008 school year, to conduct random audits as authorized under Section 39.0301(f), Education Code, and, beginning with the 2008-2009 school year, to

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conduct accreditation investigations as authorized under Section 39.075(a)(8), Education Code.

(c) During the 2008-2009 school year, allows the commissioner to use the statistical methods and standards established under Section 39.0301(b), Education Code, on a pilot basis to test their accuracy and predictive validity. Provides that the pilot statistical methods and standards are confidential and not subject to disclosure under Chapter 552, Government Code. Requires the commissioner, without releasing the pilot statistical methods, to release the results of any investigation conducted on the basis of those methods during the 2008-2009 school year on completion of the investigation.

No equivalent provision.

HOUSE VERSION

SECTION \_\_. Requires TEA, on the expiration of any contract entered into before September 1, 2007, between TEA and a vendor for the development of assessment instruments required under Section 39.023, Education Code, to issue a request for proposals for the development of end-of-course assessment instruments required under Section 39.023(c), Education Code, as amended by this Act. Provides that TEA may allow a vendor with whom it has contracted for the development of assessment instruments under Section 39.023, Education Code, before September 1, 2007, to begin developing end-of-course assessment instruments required under Section 39.023(c), Education Code, as

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amended by this Act, before the expiration of the contract.

SECTION 21. This Act takes effect September 1, 2007.

SECTION 20. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

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